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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
SPARTANBURG DIVISION  
RECEIVED  
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2007 FEB -9 A 10: 50

**Pro Se [Non-Prisoner] Complaint Form**

Charles B. Mierek )  
v. ) Civil Action No. \_\_\_\_\_  
Bank of America Corporation; and )  
Bank of America MBNA; and )  
Equifax Information Services, LLC; and )  
Equifax, Inc. )

***If allowed by statute, do you wish to have a trial by jury? Yes X No \_\_\_\_\_***

**I. PREVIOUS LAWSUITS**

***A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action?***

Yes \_\_\_\_\_ No X \_\_\_\_\_

***B. If your answer to A is Yes, describe the lawsuit in the space below.***

Not Applicable

***C. Do you have any other lawsuits pending in the federal court in South Carolina?***

Yes \_\_\_\_\_ No X \_\_\_\_\_

## II. PARTIES

### A1. *Name of Plaintiff:*

Charles B. Mierek

Address:

5250 Clifton-Glendale Road  
Spartanburg, South Carolina 29307

### B. *Name of Defendant:*

Name: Bank of America Corporation

Address:

CT Corp System,  
As Registered Agent for  
**Bank of America Corporation**  
75 Beattie Place  
Greenville, SC 29601

### C. *Additional Defendants:*

Name: **Bank of America MBNA**

Addresses (3):

Credit Card Services  
**Bank of America MBNA**  
DE5-021-01-01  
Attn: Custodian of Records  
1000 Samoset Drive  
Newark, Del. 19713

Tel. 1-800-441-7048 ext 20046

Bank of America MBNA  
Attn: Image Retrieval Department  
**Bank of America MBNA**  
1000 Samoset Drive  
Newark, Del. 19713

Legal Department  
**Bank of America MBNA**  
P.O. Box 15026  
Wilmington, DE 1985-5026

Name: **Equifax Information Services, LLC**

Addresses(2):

Corporation Service Company  
As Registered Agent For  
**Equifax Information Services, LLC**  
5000 Thurmond Mall Blvd.  
Columbia, SC 29201

**Equifax Information Services, LLC**  
P.O. Box 105518  
Atlanta, GA 30348

Name: **Equifax, Inc.**

Address:

Prentiss Hall Corp.  
As Registered Agent For  
**Equifax, Inc.**  
500 Thurmond Mall Blvd  
Columbia, SC 29201

### III. STATEMENT OF CLAIM

1. Mr. Charles B. Mierek (hereinafter "plaintiff", "Mierek" or "Mr. Mierek") was the holder of three credit cards with the defendant(s). The account/card numbers<sup>1</sup> are as follows:
  - a. xxxx-xxxx-1076
  - b. xxxx-xxxx-4041
  - c. xxxx-xxxx-9115
2. Mr. Mierek paid off the debt on these loans/cards in full in the spring of 1999. The bank defendant(s) which held these loans/cards has admitted that the debt was paid in full in the spring of 1999.
3. Mr. Mierek has written numerous letters to the defendants, some which received no response whatsoever, in order to get them to correct the misinformation and alleged violations with little success. In addition, the plaintiff made a great many telephone calls with the same intent and with the same inadequate results.
4. Plaintiff was told by the bank defendant's employees that it is the bank defendant's policy to report information to the consumer reporting agencies well past the seven year deadline in the Fair Credit Reporting Act ( FCRA).
5. The plaintiff alleges that certain bank defendants, Bank of America and Bank of America MBNA , have provided incorrect and derogatory information to consumer reporting agencies that is more than seven years past the date of the last transaction in these accounts. The plaintiff alleges that because this information was misdated and provided more than seven years past the date of the last transaction, the defendants are in violation of the Fair Credit Reporting Act. (FCRA), 15 U.S.C. § 1681 et seq.

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<sup>1/</sup> The full numbers are available to the Court and defendants upon request. The bank defendants have at various times changed these account numbers. Those listed are, to the best of the plaintiff's knowledge, the most current account numbers.

6. The plaintiff alleges the defendants internal policies regarding reporting information to consumer reporting agencies directly, intentionally, and willfully violate various provisions of the Fair Credit Reporting Act. (FCRA), 15 U.S.C. § 1681 et seq.
7. The plaintiff alleges the defendants are/have been violating sections of the FCRA, including but not limited to, Section 605 Requirements relating to information contained in consumer reports [15 U.S.C. §1681c] and Section 623 Responsibilities of furnishers of information to consumer reporting agencies [15 U.S.C. § 1681s-2] of the FCRA. The law specifies that any entity that reports information to consumer reporting agencies about a delinquent consumer account that has been placed for collection or written off must report the actual month and year the account first became delinquent. In turn, this date is used by the consumer reporting agencies to measure the maximum seven-year reporting period the FCRA mandates. The provision helps ensure that outdated debts – debts that are beyond this seven-year reporting period – do not appear on a consumer’s credit report. Violations of this provision of the FCRA are subject to civil penalties.
8. The plaintiff has repeatedly requested that the consumer reporting agency, Equifax, delete this derogatory information from its files. The plaintiff alleges the defendant consumer reporting agency did not independently fully and properly investigate the validity or correctness of the information and did not remove it from its files in violation of Federal and common law.
9. As a result of incorrect and derogatory information being listed in the credit files the consumer reporting agency maintains on Mr. Mierek, the plaintiff, has been unable to originate certain loans and refinance certain debts for himself and his businesses. The inability of the plaintiff to borrow monies has cost it losses of in excess of one million dollars (\$ 1,000,000).

#### **IV. RELIEF.**

1. The plaintiff, as a direct result of the defendants failure to comply with Federal statute and common law and regulation, has not been able to originate certain loans and refinance certain debts for himself and his businesses. The inability of the plaintiff to conduct normal business activities and borrow monies has cost it losses of in excess of one million dollars (\$ 1,000,000). Consequently, the plaintiff requests damages of not less than one million dollars (\$1,000,000).
2. The plaintiff request the Court to order the defendants to comply with all applicable Federal statutes and regulations. In particular with regard to Mr. Mierek, the plaintiff requests that all information regarding the transactions be permanently deleted from the credit files on Mr. Mierek maintained by all consumer reporting agencies/credit service agencies such as Equifax, TransUnion, Experian, etc.
3. The plaintiff requests that the defendants be precluded from selling, giving or otherwise providing any information regarding these transactions to any other person, including but not limited to debt collection businesses.
4. The plaintiff requests that the Court order the defendants to change and implement, as necessary, all of their policies, written and unwritten, so that they fully comply with Federal statutes and regulations as applicable to the plaintiff and all others they transact business with.
5. The plaintiff requests, in part because the violations were willful, deliberate, and long lasting, punitive damages of five million dollars (\$5,000,000) from the defendants.
6. The plaintiff requests that he be paid the full costs of this litigation.

*I declare under penalty of perjury that the foregoing is true and correct.*

Signed this 3<sup>rd</sup> day of February 2007.

A handwritten signature in black ink, appearing to read "Charles B. Mierek", written over a horizontal line.

Mr. Charles B. Mierek

5250 Clifton - Glendale Road

Spartanburg, SC 29307-4618

Tel. 864/579-4405

Fax. 864/579-1932